

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

ROLAND MCINTYRE,

Plaintiff,

**3:16-cv-34
(GLS/DEP)**

v.

PAUL BATTISTI,

Defendant.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

Roland McIntyre
Plaintiff, *Pro Se*
Broome County Correctional Facility
P.O. Box 2047
Binghamton, New York 13902

**Gary L. Sharpe
Senior District Judge**

ORDER

The above-captioned matter comes to this court following a Report, Recommendation, and Order by Magistrate Judge David E. Peebles, duly filed on February 4, 2016. (Dkt. No. 4.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Report-Recommendation for clear error, it is hereby

ORDERED that the Report, Recommendation, and Order (Dkt. No. 4) is **ADOPTED** in its entirety; and it is further

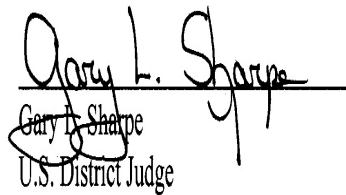
ORDERED that plaintiff's complaint in this action is DISMISSED, pursuant to 28 U.S.C. §§ 1915(e), with leave to amend within thirty days of this order; and it is further

ORDERED that if plaintiff fails to file an amended complaint within thirty (30) days of this order, the Clerk is directed to close this case without any further order of the court; and it is further

ORDERED that the clerk of the court serve a copy of this order upon the parties in accordance with this court's Local Rules.

IT IS SO ORDERED.

February 29, 2016
Albany, New York


Gary L. Sharpe
U.S. District Judge